

REMARKS

I. General

Responsive to Applicant's Appeal Brief submitted August 24, 2004, the current Office Action (mailed December 28, 2004) re-opens prosecution presenting a new ground of rejection. Claims 1-31, 33, 35-55, 57, 59, 60-67, and 72-85 are pending. Applicant notes with appreciation the indication of claims 8-10, 26, 27, 49, 50, 60-67, and 72-79 as allowable if re-written to overcome the rejections under 35 U.S.C. § 112, second paragraph. The outstanding issues in the Office Action are:

Claims 1-15, 17, 19-31, 36-40, 42-56, 58, 60, 62-67, 72-76, 78, and 80-85 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 6,044,355 (hereinafter, *Crockett*).

- Claims 7, 8, 10, 25, 26, 48, 49, and 60 are rejected under 35 U.S.C. § 112, second paragraph;
- Claims 1-7, 11-15, 17, 19-25, 28-32, 34, 36-40, 42-48, 51-56, 58, and 80-85 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,584,192 (hereinafter, *Agusta*);
- Claims 16, 18, 33, 35, 57, and 59 are rejected under 35 U.S.C. § 103(a) as being obvious over *Agusta* in view of U.S. Patent 5,572,625 (hereinafter, *Raman*).

Applicant hereby requests reconsideration and withdrawal of the rejections in light of the amendments and remarks contained herein.

II. Entry of Amendments Presented in Final Office Action

Applicant submitted a Response to Final Office Action June 16, 2004, which presented certain claim amendments that Applicant requested to be entered. Applicant explained in this response (*see* page 14 of the Response to Final Office Action) that the amendments presented were clarifying amendments, and therefore, do not narrow the scope of the claims, nor were they in response to any art. Applicant further explained that the

amendments merely explicitly recite language that clarifies the meaning of the terms, “quantify” and “quantifying,” and the amendments were not intended to be narrowing amendments as they merely made explicit what was implicit from Applicant’s definition of these terms in the specification.

In response, the Examiner issued an Advisory Action mailed July 14, 2004 indicating that the amendments presented in Applicant’s Response to Final Office Action would not be entered. Applicant then filed a Notice of Appeal on August 9, 2004, and an Appeal Brief on August 24, 2004. Because Applicant’s amendments presented in Applicant’s Response to Final Office Action were not entered, the claims on appeal were the claims prior to such amendments. Applicant explained in the Appeal Brief (*see* pages 7-9) that the amendments presented by Applicant in the Response to Final Office Action are not needed because the term “quantifying” implicitly has a meaning consistent with those amendments in view of the express definition provided by Applicant in the specification. Therefore, the claims on appeal did not contain the amendments.

In the current Office Action, the Examiner re-opens prosecution presenting a new ground of rejection, and further enters the previously unentered After Final amendments, *see* page 2 of the Office Action. Applicant takes issue with this, and respectfully submits that the Examiner has no authority to enter those amendments at this time. Entry of those amendments was respectfully requested in Applicant’s Response to Final Office Action. However, those amendments were not entered by the Examiner, as indicated in the Advisory Action of July 14, 2004. Thus, the amendments are no longer pending for entry by the Examiner.

However, as Applicant has maintained throughout prosecution, the amendments proposed in the Response to Final Office Action submitted June 16, 2004 do not narrow the scope of the claims but instead merely expressly provide language consistent with how the terms “quantify” and “quantifying” are defined in the present application. Therefore, Applicant presents amendments herein consistent with those presented in Applicant’s Response to Final Office Action submitted June 16, 2004.

III. Claim Amendments

Claims 1, 6, 9, 10, 15, 19, 24, 27, 28, 31, 36, 37, 50, 51, 54, 55, 60, 81, and 83-85 are amended and claims 7, 8, 25, 26, 48, 49 are canceled without prejudice herein. No new matter is presented by these amendments.

Claims 1, 19, 36, and 60 have been amended to clarify that “quantify” and “quantifying” means “beyond mere binary quantification,” which is consistent with the definition given on page 15 of the specification. These amendments are clarifying amendments, and therefore, do not narrow the scope of the claims, nor are they in response to any art. That is, these amendments merely explicitly recite language that clarifies the meaning of the terms, “quantify” and “quantifying,” and these are not intended to be narrowing amendments as they merely make explicit what was implicit from Applicant’s definition of these terms in the specification.

Claim 1 is further amended to include the limitations of claims 7 and 8. Thus, claim 8 is effectively rewritten in independent form as amended claim 1. As such, claims 7 and 8 are canceled without prejudice. Also, claim 1 is amended to recite “thereby providing N number of quantified attributes”, and to recite “thereby providing a quantified at least one attribute desired by said at least one request”. These amendments are made solely to ensure that sufficient antecedent basis is present for the terms “N number of quantified attributes” and “quantified at least one attribute desired by said at least one request”. These amendments overcome the 35 U.S.C. § 112, second paragraph rejection raised by the current Office Action for claim 8. Claim 1 is also amended to recite that “N is at least one”, to ensure that N is properly defined and thus overcome the 35 U.S.C. § 112, second paragraph rejection raised by the current Office Action for claim 7.

Claim 6 is amended to replace “at least one attribute” with “‘N’ number of attributes” for consistency with claim 1 from which it depends. Because claim 1 recites that “N” is “at least one”, Applicant respectfully submits that this amendment to claim 6 does not alter its scope, but instead merely restates the limitation in a manner that is consistent with the language used in claim 1.

Because claim 8 is canceled herein, claim 9 is amended to depend from claim 1 rather than from claim 8.

Claim 10 is amended to replace “quantified “N” number of attributes” with “‘N’ number of quantified attributes” for consistency with the terminology established in claim 1. Applicant respectfully submits that this amendment to claim 10 does not alter its scope, but instead merely restates the limitation in a manner that is consistent with the language used in claim 1 to ensure sufficient antecedent basis for the language used in claim 10.

Claim 15 is amended to replace “at least one attribute” with “‘N’ number of attributes” for consistency with claim 1 from which it depends. Because claim 1 recites that “N” is “at least one”, Applicant respectfully submits that this amendment to claim 15 does not alter its scope, but instead merely restates the limitation in a manner that is consistent with the language used in claim 1.

Claim 19 is further amended to include the limitations of claims 25 and 26. Thus, claim 26 is effectively rewritten in independent form as amended claim 19. As such, claims 25 and 26 are canceled without prejudice. Also, claim 19 is amended to recite “thereby resulting in N number of quantified functional attributes”, and to recite “thereby resulting in quantified at least one of said N functional attributes desired by said at least one request”. These amendments are made solely to ensure that sufficient antecedent basis is present for the terms “N number of quantified functional attributes” and “quantified at least one of said N functional attributes desired by said at least one request”. These amendments overcome the 35 U.S.C. § 112, second paragraph rejection raised by the current Office Action for claim 26. Claim 19 is also amended to recite that “N is at least one”, to ensure that N is properly defined and thus overcome the 35 U.S.C. § 112, second paragraph rejection raised by the current Office Action for claim 25.

Claim 24 is amended to replace “at least one functional attribute” with “N number of functional attributes” for consistency with claim 19 from which it depends. Because claim 19 recites that “N” is “at least one”, Applicant respectfully submits that this amendment to claim 24 does not alter its scope, but instead merely restates the limitation in a manner that is consistent with the language used in claim 19.

Because claim 26 is canceled herein, claim 27 is amended to depend from claim 19 rather than from claim 26. Claim 27 is further amended to replace “at least one functional attribute” with “at least one of said N functional attributes” for consistency with claim 19.

Claim 28 is amended to replace “quantified “N” number of functional attributes” with “‘N’ number of quantified functional attributes” for consistency with the terminology established in claim 19. Claim 28 is further amended to replace “at least one functional attribute” with “at least one of said N functional attributes” for consistency with claim 19.

Claim 31 is amended to replace “at least one functional attribute” with “N number of functional attributes” for consistency with claim 19.

Claim 36 is further amended to include the limitations of claims 48 and 49. Thus, claim 49 is effectively rewritten in independent form as amended claim 36. As such, claims 48 and 49 are canceled without prejudice. Also, claim 36 is amended to recite “thereby resulting in N number of quantified attributes”, and to recite “thereby resulting in a quantified at least one attribute desired by said at least one request”. These amendments are made solely to ensure that sufficient antecedent basis is present for the terms “N number of quantified attributes” and “quantified at least one attribute desired by said at least one request”. These amendments overcome the 35 U.S.C. § 112, second paragraph rejection raised by the current Office Action for claim 49. Claim 36 is also amended to recite that “N is at least one”, to ensure that N is properly defined and thus overcome the 35 U.S.C. § 112, second paragraph rejection raised by the current Office Action for claim 48.

Claim 37 is amended to replace “at least one attribute” with “N number of attributes” for consistency with claim 36 from which it depends. Because claim 36 recites that “N” is “at least one”, Applicant respectfully submits that this amendment to claim 37 does not alter its scope, but instead merely restates the limitation in a manner that is consistent with the language used in claim 36.

Because claim 49 is canceled herein, claim 50 is amended to depend from claim 36 rather than from claim 49.

Claim 51 is amended to replace “quantified “N” number of attributes” with “‘N’ number of quantified attributes” for consistency with the terminology established in claim 36.

Claims 54 and 55 are each amended to replace “at least one attribute” with “N number of attributes” for consistency with claim 36.

Claim 60 is further amended to recite “thereby providing quantified ‘N’ number of attributes”, and to recite “thereby providing quantified at least one attribute desired by said at least one request”. These amendments are made solely to ensure that sufficient antecedent basis is present for the terms “quantified ‘N’ number of attributes” and “quantified at least one attribute desired by said at least one request”. These amendments overcome the 35 U.S.C. § 112, second paragraph rejection raised by the current Office Action for claim 60. Claim 60 is also amended to recite that “N is at least one”, to ensure that N is properly defined.

Claim 81 is amended to replace “quantified at least one attribute” with “N number of quantified attributes” for consistency with claim 1 from which it depends. Because claim 1 recites that “N” is “at least one”, Applicant respectfully submits that this amendment to claim 81 does not alter its scope, but instead merely restates the limitation in a manner that is consistent with the language used in claim 1.

Claim 83 is amended to replace “at least one functional attribute” with “at least one of said N functional attributes” for consistency with the terminology established in claim 19.

Claim 84 is amended to replace “at least one functional attribute” with “at least one of said N functional attributes” for consistency with the terminology established in claim 19. Claim 84 is also amended to replace “quantified at least one functional attribute” with “N number of quantified functional attributes” for consistency with the terminology established in claim 19.

Claim 85 is amended to replace “at least one functional attribute” with “at least one of said N functional attributes” for consistency with the terminology established in claim 19. Claim 85 is also amended to replace “quantified at least one functional attribute” with “N number of quantified functional attributes” for consistency with the terminology established in claim 19.

IV. Claim Rejections

Claims 7, 8, 10, 25, 26, 48, 49, and 60 stand rejected under 35 U.S.C. § 112, second paragraph. Applicant respectfully asserts that the above amendments overcome this rejection. Therefore, withdrawal of this rejection is respectfully requested.

In view of the above amendments and the indication in the current Office Action that claims 8-10, 26, 27, 49, 50, 60-67, and 72-79 are allowable if re-written to overcome the rejections under 35 U.S.C. § 112, second paragraph, Applicant respectfully submits that the claims as presented herein are allowable. Thus, withdrawal of the outstanding rejections under 35 U.S.C. § 112, second paragraph, 35 U.S.C. § 102, and 35 U.S.C. § 103 is respectfully requested.

VI. Conclusion


In view of the above amendment, Applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2380, under Order No. 47524/P102US/09901295 from which the undersigned is authorized to draw.

Dated: March 10, 2005

Respectfully submitted,

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